



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

*His Grace the Steward and Trial of Peers.* A Novel Inquiry into a Special Branch of Constitutional Government. By L. W. VERNON HARCOURT. (London and New York: Longmans, Green and Company. 1907. Pp. xii, 500.)

MR. VERNON HARCOURT'S book is one for which we may be grateful however much we disagree with some of its details, or criticize its faults of form. One merit of detail certainly deserves to be mentioned, the copious quotation from unprinted materials. The book is divided into two parts, the first dealing with the steward, the second with the trial of peers. The first part traces the office of steward through the earlier dapifership, and seneschalship, to the Lancastrian period when it becomes practically extinct. The author's principle thesis is that the stewardship in England never was, in any part of its history, a great political office, as at one time the seneschalship in France had been. It was never allowed to become more than a ceremonial office of dignity. This he seems clearly to have proved.

With much that the author says in his discussion of the early history of trial by peers the present reviewer is obliged to disagree. Mr. Vernon Harcourt has read widely in feudal law and in the charters of the feudal age, but he does not seem to have acquired a clear understanding of the fundamental principles of that law, nor of procedure in the feudal courts. The distinction between *Urteilfindung* and *Rechtsgebot*, clearly perceived, would have saved him from some misapprehension. The very instructive record of the trial of the bishop of Durham in 1189 should have led to further conclusions regarding both law and procedure. The fact which is seen, that in the early history of the royal courts the king's justice was the baron's peer, is not rigorously applied either to the transitional stages of the thirteenth century or to the statements of Bracton. Nor is there any notice of the effect of the same fact in French constitutional history. Great difficulty is occasioned by c. 39 of Magna Carta both as to its roots in the past and its influence on the future. Mr. Vernon Harcourt apparently regards it as having something of a legislative character, at least as giving to the principle of trial by peers a prominence it had never before possessed, instead of being, if it had any purpose apart from its merely practical one, an effort to defend a form of procedure which was threatened with extinction. Much ingenuity is expended in the settlement of difficulties in the interpretation of the clause which occur readily to the trained lawyer of to-day, but which could never have troubled the men of 1215, and the fact is overlooked that the most natural and simple explanation gives us without doubt what they meant by it. As to the second "vel" of the clause, the author holds, as I understand him, that all instances of the medieval use of "vel" for "et" were blunders, as if one should write "cow" where the context shows plainly he intended "horse", and therefore "vel" in

c. 39 is disjunctive. The facts are certainly against this argument. Such an interpretation also overlooks the fact that "the law of the land", whatever may have been meant by it, is not an alternative to "judgment of peers". The only alternative to the latter, possible at the time, was the mode of trial which the barons desired to avoid. It is probable that "vel" is conjunctive in both places where it occurs in c. 39.

I am obliged to take equal exception to many details in the chapter on the trial of John, but this REVIEW has hardly the space for a full commentary. A new view as to the condemnation of John is added to those already advocated. As I understand the author, John was not condemned to forfeiture in 1202, or in 1203, either in consequence of the appeal of the barons of Poitou, or of the murder of Arthur, but he was so condemned in April, 1213, by Philip's court at Soissons, for his various nefarious acts. This theory, however, is based on interpretations of law and of language which cannot be admitted. One is surprised to learn that John might instantly have ordered Arthur's execution without form of trial, as a vassal in arms against his lord, and one would like to have chapter and verse for this law. A portion of the manifesto issued by Louis on his landing in England in 1216 Mr. Vernon Harcourt regards as a "highly creditable performance". There is really no difference in character between the different clauses of that document, and it is all highly creditable to the ingenuity of a man who wishes to come as near as possible to the truth in the form of words he uses while conveying a wholly false impression.

It is of these two chapters that the most serious criticism of detail is to be made. It must be added, however, that even in these chapters there is much interesting and valuable suggestion by the way, and this is particularly true of the chapters which follow them in which the history of the trial of peers is followed down to the establishment of the modern practice at the end of the Middle Ages. In these chapters will be found fuller accounts of some famous trials of peers in the period covered than can be found elsewhere, with long extracts from unpublished sources. In the case of the Earl of Huntingdon, who died in January, 1400, the author advances the interesting theory that the record of his trial before the lord high steward contained in the Year Books, and serving as the earliest precedent for trials of this form, was a deliberate forgery in the interests of Henry VII. to furnish historical justification for the trial of the Earl of Warwick.

GEORGE B. ADAMS.

*The Great Revolt in 1381.* By CHARLES OMAN, M.A., Professor in the University of Oxford. (Oxford: The Clarendon Press. 1906. Pp. viii, 219.)

THE present work is the first complete monograph upon this important subject, all previous works having treated certain phases of the